

**IN THE UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK**

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**UNITED STATES OF AMERICA**

**v.**

**JOSEPH PERCOCO,  
a/k/a “Herb,”  
ALAIN KALOYEROS,  
a/k/a “Dr. K,”  
PETER GALBRAITH KELLY, JR.,  
a/k/a “Braith,”  
STEVEN AIELLO,  
JOSEPH GERARDI,  
LOUIS CIMINELLI,  
MICHAEL LAIPPLE, and  
KEVIN SCHULER,**

**Defendants.**

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**Case No. 1:16-cr-00776 (VEC)**

**ORAL ARGUMENT  
REQUESTED**

**NOTICE OF THE BUFFALO DEFENDANTS’  
JOINT MOTION TO DISMISS THE INDICTMENT  
PURSUANT TO FEDERAL RULE OF CRIMINAL PROCEDURE 12**

Moving Parties:	Defendants Louis Ciminelli, Michael Laipple, and Kevin Schuler (the “Buffalo Defendants”).
Directed To:	The Government.
Date and Time:	To be scheduled by the Court.
Place:	Before the Honorable Valerie E. Caproni, United States District Judge, United States District Court, Southern District of New York, Thurgood Marshall United States Courthouse, 40 Foley Square, New York, New York 10007.
Supporting Papers:	Declaration of Jessica A. Masella, dated May 19, 2017; and The Buffalo Defendants’ Joint Memorandum of Law dated

May 19, 2017.

Reply Papers: Defendant intends to reply.

Relief Requested: An Order of the Court:

(1) Dismissing all charges against the Buffalo Defendants pursuant to Federal Rule of Criminal Procedure 12 for the Indictment's failure to allege the requisite elements of the charged crimes; or

(2) In the alternative, directing the Government to provide a bill of particulars so the Buffalo Defendants are not deprived of their right to a fair trial.

Grounds for Relief: The United States Constitution, Federal Rule of Criminal Procedure 12, and federal decisions as set out in The Buffalo Defendant's Joint Memorandum of Law.

Oral Argument: Requested, at the earliest date and time available to the Court.

Dated: Buffalo, New York  
May 19, 2017

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